

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6326 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAYASHANKER BHULAN TRIPATHI

Versus

DIST. SUPERINTENDENT OF POLICE, PATAN DIST.

Appearance:

MR SB NANAVATI for Petitioner

MR NN PANDYA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties.

2. The petitioner, a police constable, filed this Sp. Civil Application before this Court challenging thereunder the order of the respondents, annexure 'C' dated 11-8-1983 under which the rent for the quarter, the possession of which has been retained by him beyond the permissible limits after transfer has been ordered at the

rate of Rs.245/- per month. This order has been challenged by the petitioner on two counts. Firstly, it is contended that the petitioner has retained the quarter for reasonable period. There is no dispute between the parties that the petitioner has already vacated the quarter. The next submission made by the learned counsel for the petitioner is that the discrimination has been made by the respondent in the matter of taking action against certain constables who have not vacated the quarter either after transfer or retirement. In the case of those persons, though they have not vacated the premises after the permissible period, but in their case economic rent has not been ordered to be recovered, whereas in the case of the petitioner, such an order has been passed. The reply to this writ petition has been filed and the respondents are unable to give out the name of some of the constables and the date on which they vacated the quarters after their transfer. This Court while issuing the notice to the respondents in this case on 30th December, 1983, protected the petitioner by granting the interim relief in terms of Para-11(c) and this interim relief continues till this date. As the petitioner has been protected by this Court by interim relief and admittedly the petitioner has also vacated the quarter, the interest of justice will be met in case this Sp.Civil Application is disposed of with the directions to the respondents that the case of the petitioner may be considered afresh regarding the charging of the economic rent from him for the period for which he alleged to have continued in possession of the quarter beyond permissible limits. The petitioner shall make a representation in this respect giving out all the grounds dealing in support of his case within a period of one month from today and the respondents shall decide the same within a period of two months thereafter. In case, the respondents do not agree with the submissions of the petitioner then they will pass a speaking order, and a copy of the same may be sent to the petitioner by registered post. Till this exercise is undertaken and a final order is passed by the respondents, the interim relief granted by this Court shall continue. The rule is made absolute in the aforesaid terms.
